



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of November 19, 2011

DATE: November 2, 2011

SUBJECT: Approval of the Third Amendment to the 2009 Master Agreement between the County Board and the Virginia Department of Rail and Public Transportation (DRPT).

C. M. RECOMMENDATION:

Approve the attached Third Amendment dated July 1, 2011 to the Master Agreement, dated July 1, 2009, for use of Commonwealth Transportation Funds between the Department of Rail and Public Transportation (DRPT) and the County Board, in the form attached hereto, and authorize the County Manager to execute the Amendment, subject to approval of the document as to form by the County Attorney.

ISSUES: The Third Amendment to the Master Agreement needs to be approved by the Board to enable Arlington County to receive State and Federal funds from DRPT for FY 2012 and to apply and receive funds for future fiscal years.

BACKGROUND: In order to use funds, DRPT requires that localities, including the County, enter into a Master Agreement for Use of Commonwealth Transportation Funds ("Master Agreement"). On June 12, 2010, the County Board approved the current Master Agreement dated July 1, 2009. Since that time, DRPT advised County staff that, prior to the release of funds for FY 2012, a Third Amendment (Attached) to the Master Agreement needs to be executed to reflect the new rules and regulations for receiving Federal and State transportation funds.

DISCUSSION: The attached Third Amendment to the Master Agreement for Use of Commonwealth Transportation Funds amends the current Master Agreement by allowing DRPT to appoint a representative to the oversight board of the public transit service provider benefiting from state funding. If the members of an oversight board are determined through public election, or if complying with this requirement will violate a statute or General Assembly authorization, this provision shall not apply. By its terms, the amendment language does not apply to Arlington and therefore there is no reason not to sign the amendment. The County has requested a letter from the Director of DRPT confirming this conclusion.

County Manager:

County Attorney:

26.

Staff: Chris Hamilton, Dept. of Environmental Services – Transportation Division

FISCAL IMPACT: The Third Amendment to the Master Agreement needs to be approved by the Board to enable Arlington County to receive State and Federal funds from DRPT for FY 2012 and to apply and receive funds for future fiscal years.

Attachment: Third Amendment to the Master Agreement for Use of Commonwealth Transportation Funds, July 1, 2011

**THIRD AMENDMENT TO THE
MASTER AGREEMENT FOR USE OF COMMONWEALTH
TRANSPORTATION FUNDS**

THIS THIRD AMENDMENT to the Master Agreement for Use of Commonwealth Transportation Funds, dated July 1, 2009, is made and executed as of the 1st day of July, 2011, by and between the Virginia Department of Rail and Public Transportation (the "Department"), acting by and through its Director, and the County Board of Arlington County (the "Grantee").

RECITALS

WHEREAS, Section 11.3 of the Master Agreement for Use of Commonwealth Funds (the "Agreement") provides that it may be amended by instrument signed by both parties; and

WHEREAS, the parties have entered into Amendment #1 of the Agreement by instrument dated March 1, 2010, and Amendment #2 to the Agreement by instrument dated July 1, 2010; and

WHEREAS, the Department wishes to add an additional section, known as Section 23.5, concerning the appointment of representatives to oversight boards upon request of the Department to the Agreement; and

WHEREAS, the Grantee is in agreement with the Department's proposed amendment;

NOW, THEREFORE, in consideration of the covenants and agreements contained herein and pursuant to Article 11, Section 11.3 of the Agreement, the parties agree to amend the Agreement to add the following language:

Section 23.5 If the Department requests, the Grantee agrees to appoint one principal representative selected by the Department to the oversight board of any public transit service provider on which the Commonwealth is not already represented by a principal member and which benefits from state funding provided to the Grantee. If the members of an oversight board are determined through public election, or if complying with this

requirement will violate a federal or state statute or General Assembly authorization, this provision shall not apply.

All other provisions of the Agreement as amended by Amendment #1 and Amendment #2 remain unchanged and in full force.

IN TESTIMONY THEREOF, the parties have caused this Third Amendment to the Master Agreement for Use of Commonwealth Transportation Funds to be executed in duplicate, each by its duly authorized officers, all as of the day, month, and year hereinabove first written.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF RAIL AND
PUBLIC TRANSPORTATION**

**Thelma Drake
Director**

WITNESS: _____
(NAME AND TITLE) DATE

COUNTY BOARD OF ARLINGTON COUNTY

**Name: _____
County Manager**

WITNESS: _____
(NAME AND TITLE) DATE